

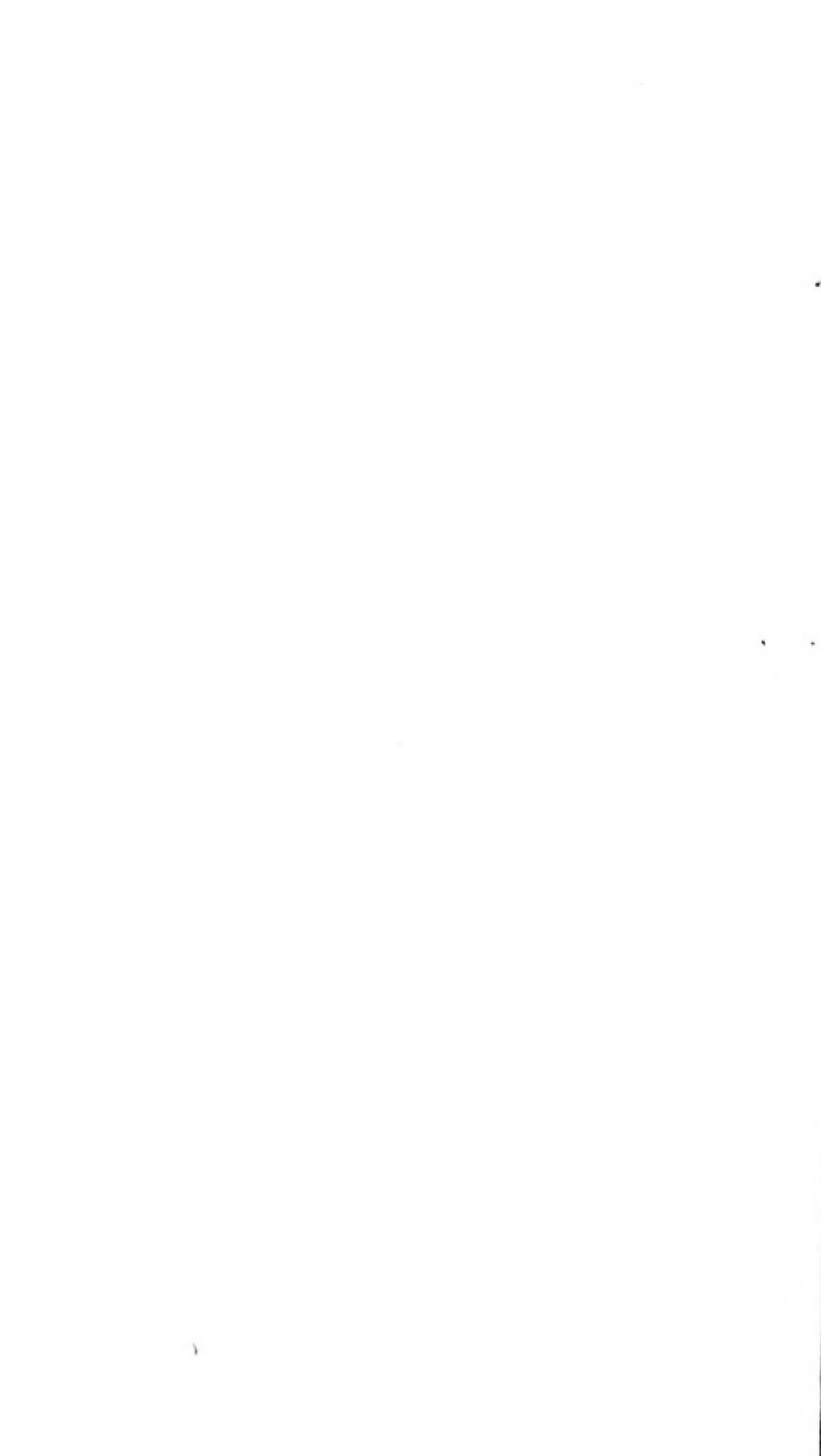


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R E M A R K S

ON THE

L E T T E R

OF THE

R T. H O N. E D M U N D B U R K E,

CONCERNING THE

REVOLUTION IN FRANCE.

[PRICE TWO SHILLINGS.]

R E M A R K S

ON THE

L E T T E R

OF THE

R T. HON. EDMUND BURKE,

CONCERNING THE

REVOLUTION IN FRANCE,

AND ON

THE PROCEEDINGS IN CERTAIN SOCIETIES IN
LONDON, RELATIVE TO THAT EVENT

ΑΛΗΘΕΙΗ. ΑΡΕΤΗ. ΕΛΥΤΟΡΦΗ.

*I have no Compliments or Invitations for Parties. I have
no political Attachments but to TRUTH, VIRTUE, and
LIBERTY: and am ambitious of no Friends or Enemies
but theirs.*

BY C A P E L L O F F T.

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M.DCC.XC.

R E M A R K S

ON THE

R E F L E C T I O N S

OF THE

Right Hon. EDMUND BURKE,

CONCERNING THE

REVOLUTION IN FRANCE, &c.

IN whatever state of mind, whether of tranquillity or of distress, Events which must considerably affect the welfare of any part of the human species, cannot be indifferent to an human being, duly sensible of his relations as such, and their correspondent duties. Extreme and frivolous must have been that vanity indeed, or more wretched and incongruous still any other selfish motive, which

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could have induced me, at this time, to take the pen with the design of animadverting on the late Publication of Mr. BURKE, composed deliberately and with study, on one of the greatest and most singular of all national occurrences ever transmitted to mankind in the historic page; THE REVOLUTION of FRANCE: and containing, with many Principles to which it is impossible that I should wish a permanent celebrity, (and these such as to affect the very basis of the work) many Remarks which I think it merely an obligation of candour to acknowledge as equally acute and solid; Remarks which may yet, I hope, have a beneficial effect on the present day; and which, in descending to posterity, will not fail of approbation.

There are two QUESTIONS which naturally occur in contemplating the past and present situation of FRANCE. *Whether a Revolution, or great change in the government, by the interference of the power of the People, was necessary to the security and welfare*

of

of that nation ;—and how far the means employed, the principles adopted, and the system actually introduced, have been promotive of the success of those only adequate inducements for hazarding the evils which always must be hazarded in the production of any great and general change. And these two questions, with the Evidence proper to decide them, more particularly belong to the FRENCH NATION itself.

There is a THIRD, and most extensively important, question : *how far the REVOLUTION in FRANCE, either as a Fact or as an Example, is interesting to this, and to other Nations : what sentiments and conduct it should inspire ; and what consequences it tends to produce.*

This arrangement, which seems to flow from the subject, can have but one inconvenience to the Reader ; and that, when once intimated, will probably not be considered as any : it will oblige me to examine last some considerations on the conduct of individuals

and public bodies in this Country, which Mr. BURKE has placed in the van of his argument: but as with him they recur as objects of attack, and are complimented with a sort of platoon firing through the several divisions of his main body, and with me they will be found only in the post assigned to them in the rear, I may without much presumption believe no material degree of confusion can take place from this difference in arranging the subject. As to the *first* it may be observed, that the ordinary or extraordinary powers of the subsisting government had appeared inadequate to the exigence in the opinion of the *French Monarch* himself and his advisers: particularly of Mr. NECKAR; whose attachment either to the just interests of the Crown or the Rights of the People appears, so far as I have yet learnt, unexceptionable.

When it was necessary for the maintenance of public credit, and for the support of the honour of the Crown, to resort to some system

tem of political organization, which might create a body invested with the confidence and representing the will of THE PEOPLE, it was necessary to make a change in the mode of administering the government; which if permanent, must amount to a *Revolution*: and assuredly it was too much to expect, that the People should submit to a temporary arrangement for the advantage of a part of the state, and not aim at a lasting provision for the whole.

At that time precedents were interruptedly, and thinly scattered through a long period of time, and extremely various with respect to the formation of an Assembly of the States. After various instructions from the provinces, the King issued a *Declaration*: a Copy of this was transmitted to me in manuscript, by a friend then at *Paris*: and whose services to human society, in a line not usually comprehended within the system of politics, have been signal, and of exemplary perseverance: I hope that I am not at liberty to name him:

and that his present illness will not rank him among those of whom it is allowed to speak without wounding delicacy, and without incurring envy. It struck me, *that* Declaration entered too much into the detail; that it was unsatisfactory, and liable to evasion in some very material, but yet subordinate, points; and that as to others of really primary importance, it prematurely anticipated what might, with better prospect, have been left to be suggested in the Assembly itself, by the zeal and discretion of some of its members. But I thought at the same time, that it contained hints very capable of being modified, so as to give the outline of a free and firm Constitution; retaining so much of antient usage as should obviate prejudice, and conciliate union; and adopting so much of new provisions as should secure the preponderance of public and general right. But this Partition of legislative bodies, though perhaps essential to a permanent Constitution, would probably have been incompatible with the

great

great and necessary design of *forming* a Constitution; to this, a *single* Body, so constituted as the NATIONAL ASSEMBLY, seemed best adapted.

This was about the middle of the summer of 1789. The necessity of giving some determined form, which should regulate the powers of the Convention, soon became pressing, and, waiving, for the moment, the discussion of the particular form adopted, a change of sufficient magnitude to be called a Revolution, was, on all hands, and the King particularly not excepted, almost unanimously desired. The very letter * by which the STATES GENERAL were convened, summoned the Deputies in such manner as to recommend expressly their being furnished with general and sufficient † *powers to propose, advise, and consent to every thing which might concern the wants of the State, the Reform of Abuses, the establishment of a firm and durable order in all the departments of the administration;*

* Jan. 24, 1789. † Address of the Nat. Assemb. and authent. Doc. Lond. 1790, p. 26.

the general prosperity of the kingdom, and the welfare of all, and every of the subjects.

But with Mr. BURKE, it seems, these inveterate abuses, these radical, and by all orders acknowledged defects, are little and fallacious motives, and very inadequate to justify a change. Government with him, seems a kind of interest, vested in certain parties as a private estate under a settlement : and to him it is apparently, at least, doubtful, whether the People, under any subsisting government on earth, have a right to make the system which their ancestors have left them, other than they found it. They may, it seems, in extreme cases, remove the Tyrant ; but if the root of tyranny is interwoven in their political Constitution, they must, in obedience to the obligations contracted for them by their Ancestors, retain the radical vice of a government so established, because it has been established.

Yet, in our ENGLISH REVOLUTION, I see nothing to induce the opinion, when facts

facts are attentively considered, of any incompetence in the People to alter the form of the Constitution, in any extent which they should find requisite. Dr. PRICE* considers it as a solemn assertion carried into practice, of the *Right of the People to chuse their own Governors; to cashier them for misconduct; and to form a Government for themselves.* And in the name of the PEOPLE of ENGLAND, Mr. BURKE† very explicitly and warmly protests against the claim: and denies it to have any foundation in the facts and principles of that event: reprobating the idea as innovating, and certain to be resisted by the People, with the sacrifice of their lives and fortunes, if ever it should be practically asserted. But as it cannot be practically asserted at any future period, but by the concurrence of the People, there must be some mistake in supposing, that the People will sacrifice themselves to prevent what they shall have determined to effect.

* Price, p. 34.

† Burke, p. 20.

The question, in the mean time, whether these three great principles *are* practically asserted by the Revolution, must, from the nature of it, be a simple question of fact; the solution of which cannot be difficult or obscure.

On the *second* of these Rights, which was first in the execution, (for *William* was not chosen till *James* had been legislatively *pronounced* no longer King) the only objection possible to be offered to the proof resulting from the plain language of the facts amounts to this, that *mischandt** is a word not sufficiently strong for the occasion. Mr. BURKE gives no other word: and he repeats the instances of misgovernment for which the Legislature, in the name and in the behalf of the people, pronounced the Government abdicated, and the Throne vacant: they are instances of the highest misconduct: and the term is proper, because it does not mislead, by appearing to confine the mind to the degree and particular

* P. 38.

instances of delinquency, but gives, justly and with precision, the general ground. What degree and kind of misconduct incapacitates for that measure of public trust which is annexed to the exercise of the kingly office, THE PEOPLE must determine. And as the justness of Mr. BURKE's observation, that the ceremony of cashiering kings is no light or easy one, will admit of no dispute, it can be as little doubted, that the People will not resort to it as a capricious amusement ; but as a most serious and last remedy, in cases of general urgency.

But to say, that "*the line where obedience ought to end, and resistance must begin, is faint, obscure, and not easily definable,*" is to convert a question of common sense, and immediate public feeling, into a casuistical nicety ; either useless when applied to such subjects, or pernicious ; nor is this very consistent with the epithet of "*superlative,*" characterizing this line ; for superlatives must make a determi-

* P. 43.

nate,

nate, strong, and vivid impression. And to say, that it is "*a question of state, not made for common occasions, nor to be agitated by common minds**," is to assert in the former clause of the sentence, what was too clear to require stating ; and which seems only to have been introduced for the purpose of familiarizing the doctrine in the close ; a doctrine so alarmingly paradoxical, that it did indeed require preparation : it was necessary the mind should slide over it by aid of the smooth and insensible declivity offered it in the preceding proposition. There is no descent not surmountable with ease, where the inclined plain can be proportionably adapted : and thus our philosophical Politician has conducted us to the foot of the precipice, when perhaps we hardly perceived we had quitted the level. Without such precautions, common minds would certainly have been startled at being informed, that it was the exclusive right and faculty of those very uncommon minds of

* P. 43.

which

which the leaders of parties are composed, to determine the measure of those oppressions which the People must patiently endure ; and to mark, as their discretion suggests to them, the obscure and indefinable line where resistance shall begin, when the public eye is incapable of discerning it.

Thus it is in *Turkey* : where the Constitution remains unviolated by reform, though the necks of the governors are in the habit of expecting the bow-string ; and where constantly there exists as much or as little reason for a Revolution, as the few whose interests are concerned feel themselves disposed to discover.

The right to the *choice* of governors, as by the Revolution asserted, is combated on the suggestion that it is “*against all principles of genuine jurisprudence to draw a principle from a law made in a special case, and regarding an individual person* *.” And if it regards him merely as an individual, this will evidently be true. But the principles of that

* Page 23.

law which pronounced the throne abdicated and the government vacant, and which filled that vacancy by the adoption of a foreign Prince, were not limited to the names and persons of *James* and *William*. These we may now use as the *Caius* and *Titius* of the *Roman* jurists : and may assert, that when a Prince violates the original compact, and by breaking the fundamental laws manifests (and carries into execution as far as in him lies) by overt act, an attempt to subvert the constitution of the kingdom ; when a Prince puts himself in a situation which incapacitates him from performing the duties of his office, he has divested himself of title to authority ; and the vacancy shall be supplied in such manner as the circumstances of the case demand, for the preservation of the liberty and peace of the Nation.

Another reason is attempted by which to prove, that the conduct of the Revolutionists was not meant to assert, but to exclude the right of the People to chuse their governors :

it

it was *a small*, it is said, *and temporary deviation from the strict order of hereditary succession**. But doubtless it is too manifest to require proof or discussion that it was *not* a small deviation; since it vested the whole regal office *exclusively* in *William*: that it was *not temporary*; since it superseded all who were not Protestants to the end of time: that indeed no change of succession could go much farther than one which constituted a new source, new limitations and conditions of descent: and that had it been in fact as temporary and as small as any change of this nature can ever be, it could be justified on no principle of less extent than such as would alike authorize, if the case required, a total disregard to succession: and a case is obvious to be conceived in which, on the principles of the Revolution, all idea of succession in any subsisting line must have been totally abandoned. Events were by no means improbable, in which, by the very Act of suc-

* Page 24.

cession, established on the principles which had established the Revolution, a new appointment, for which no legislative provision had been made, must have taken place: persons inheritable, if they had not expressly been excluded, still remaining. And this appointment could have had no constitutional or rational basis but in an authority derived from THE CHOICE OF THE PEOPLE.

In reality, THE PEOPLE exercised a right as full as the most absolute which the possessor of a fee can exert in limiting a private inheritance. If he gives this to *John*, in preference to his elder brother *James*, he gives it by the same right, and not by any less than that, which would have authorized him to give it to a stranger. If he limits the descent by conditions, he limits it as having the perfect disposal: the nature and importance of those conditions being in his own breast. If the legislature then adverted in the instance of *William* to any idea of propinquity to the throne, they did thus because

cause such propinquity was, with more essential considerations, a motive of choice, as softening prejudices and retaining so much of antient usage as appeared, in the circumstances, safe and expedient to be retained. And in the preface to the last Edition of the Discourse of Dr. PRICE on *the Love of our Country* (a Discourse which the most brilliant Genius and the most seducing Authority cannot lower from its just and general estimation into public disregard) it is well observed, that the power of Parliament to limit the descent and inheritance of the crown is solemnly affirmed by a deliberate act of the Legislature *.—I say nothing of the extreme sanction under which the denial of it is prohibited.

The right of the People to form a government for themselves †, is said to have as little sanction from the Revolution as the other two, either in precedent or principle. This may truly and safely be admitted: since we have seen, that those two are most clearly and ex-

* 6 Anne, c. 7.

† Page 44.

plicitly recognized, both in principle and practice, by that event : and if a People assert by their conduct their right to remove their governors for mal-administration of their office ;—their right to choose governors, superseding by that choice the course of succession ; and if these Rights so asserted resolve themselves into first Principles of social Power and of civil Freedom, it would be idle in the extreme to enquire, by what means a People who understand their branches of their authority, inherit them as rational and social beings, united for the common benefits of civil government, and act accordingly, can be made to doubt whether such government be not as much theirs to re-model or create, as the persons by whom it is to be administered are, necessarily, from the relation in which they stand, subject to their appointment and removal.

But if Mr. BURKE views the REVOLUTION in this country in 1688 rightly, it was an exertion of public authority to establish freedom for the People of that age, in so far

as their leaders thought proper to establish it: but to perpetuate *slavery* on their posterity for ever: since if the stipulations which they chose at that time to make were to be for ever binding on their descendants by an irrepealable law, whatever defects or mischiefs time and experience might discover, the law, which derives its force in every free state from being an expression of the will of the state, might act in the most perfect contrariety to their will*.

Every law, I apprehend, which is not merely declaratory of immutable principles (for these derive their obligation from an independent and supreme source) may be repealed by the same authority by which it is

* Whether the occult Power of the *Jus-Divinum*, or the Magic Obligation on all Posterity, of a particular A&t of Parliament, rivetted the Chain, the language of the *Polinice* would hold alike.

- “ Est ce au Peuple, Madame, de se choisir un Maitre ?
- “ Si tôt qu'on hait un Roi, doin on cesser de l'être ?
- “ Son haine ou son amour sont ces les premiers droits
- “ Qui font monter au Trône ou dependre les Rois ?
- “ Que le Peuple à son gré nous craigne ou nous cherisse,
- “ Le sang nous met au Trône et non pas son caprice.

Les Freres ennemis Racine. T. 1.

enacted : an ordinary law by the ordinary power of the legislature under their general trust ; a constitutional law by the constitutional power of the People under a special trust, committed to the legislature for that particular purpose. In any other view of the subject I should feel little difference between the obsolete notion of a divine hereditary indefeasible right to a perpetual succession of unalterable monarchy, and a parliamentary indefeasible obligation to an unchangeable form of government.

The Kings, if there have been such of this country since the *Norman William*, who did not owe their throne to choice, direct or remote, of their People, could, I apprehend, be no other than usurpers. But it would not follow that the acts passed under their reign would consequently be invalid, any more than the *plebiscita* proposed by a Tribune in the *Roman* republic, under certain incapacities, by the constitution, of holding that office. Mr. BURKE, on recollection, can hardly, I think, fail to see the right side of this question : which

has not been overlooked by the observation and sagacity of PLUTARCH. Laws would be wretchedly precarious indeed, if they should be void by the want of title in the individual, exercising, in fact, the regal office, though passed by the advice and concurrence of the representatives of the People, and the other branch of the community, the Lords. To suppose this, seems to contradict all analogy : and if no temporary and personal considerations had intervened, it seems incredible that the acts of the legislature, during the interregnum, could have been considered as void.

In the last seven centuries, and what has passed of the present, will one be found in which the course of succession has been observed as an unalterable rule ? The general principle of a successive crown, in preference to one elective, at every vacancy, has prevailed : as of convenience ; not of perpetual and proper necessity, in a political sense. Yet Mr. BURKE expresses himself as if there never had been a King of *England* who owed his throne to the choice of the People, prior

to the Revolution: and as if the validity of our most essential laws, such as are vital to the constitution, depended on the result of researches now to be made respecting the validity of the titles to the crown of the several Kings in whose reign they passed: as if the two Houses acting representatively, or immediately, for the whole Community, the king excepted, could not give sanction to such laws as they should think necessary for the security and welfare of the People; if it should happen that Posterity should be convinced, by antiquarians, that the duke of York had a better title than the duke of Lancaster, or the contrary: that Richard the Third was an usurper; or if he were not, that Henry the Seventh was: that, to go earlier back, the second or the fourth Henry stood upon ground that might not be able to resist the pressure of a severe discussion: that Edward the Third had the most shocking objections to be opposed to his accession: or again, in later times, that of the sisters Mary and Elizabeth, the Principles of succession, if tenable as

to one, must fail as to the other; and that of choice, with regard to Mary, would have historical objections to its clearness, not easy to be surmounted. Where I see the approbation, or voluntary acquiescence of the People, I see law; although there may be anomalies affecting parts of the legislature: and on any other principle, I should doubt whether we had an existing statute which could be called a law: at least since the *septennial act*; or much farther back, the act of disfranchisement, in the 8th of Henry VI. But for the rule which supports laws, until the public suffrage of the nation declares their invalidity, notwithstanding defects in some of the branches of the legislature, it is unnecessary to quote *Coke*, *Hale*, *Foster*, *Blackstone*, and *Barrington*. The rule proves itself by its utility and necessity.

It should seem, from another passage in Mr. BURKE, that not one of the three branches of the legislature could be constitutionally annulled, by its own consent, and that of the other two, founded on the most ex-

press and general declaration of the public will for the change :—they have then each a several, absolute, indefeasible right in the most perfect sense : and, by the same reason, two or one would have had the same right, if no more had existed ; and they could not, I presume, have consented to the creation of a co-ordinate power, any more than to the extinction of their own. To this, strict and necessary analogy seems to carry Mr. BURKE : if so, it may shake his faith hereafter as to the legitimate existence of an House of Commons. It will not shake mine : I know that the creation of new, or extinction of actual legislative powers, is necessarily and clearly beyond the limits of the ordinary legislature : but to say THE NATION * cannot proceed thus far without exceeding the bounds of moral competence ; without breach of reason, faith, justice, and fixed policy, appears nothing less than saying, that it is morally incompetent to any People to have a better con-

* Page 27.

stitution than that which, on their first forming themselves into civil society, happened to be adopted.

I feel very different emotions from those of pleasure in being obliged to dissent from MR. BURKE ; but I find another point which compels me to express my dissent : his denial of the *responsibility* of the King to the Public.

I know that Mr. BURKE may find a statute in which that responsibility is denied : denied not only of a representative Public, in the ordinary state of the constitution, but of the People, in any the most extraordinary and fullest expression of their will. He may find (or rather he has found, in both instances) the same denial, in a triumphant speech* from a tribunal of justice, when the Monarchy sat in judgment on its late Victors. He will certainly, I apprehend, not hear, from any Society or individual, of that representative Public, in the settled state of the constitution, to which

* By Sir Orlando Bridgeman, on the Trial of the Regicides.

the King is responsible : but if the House of Lords should arrogate to itself exclusively the powers of both, or either of the other branches ; if the House of Commons should declare its pleasure to sit till it should dissolve itself, that House of Lords, and that House of Commons, would be responsible in right ; and I trust the spirit of the Nation would reduce that responsibility to fact.

The constitutional doctrine is certainly that the King is not criminally responsible to the ordinary legislature ;—nor any of its branches, to either or both the other. And the Constitution provides expressly for that responsibility alone, which can be incurred while it exists unsubverted. While it does thus exist, none of its separate powers can so act as to be amenable to the others. But which ever branch, by assuming an exorbitant authority, destroys the constitutional *equilibrium*, deprives itself of its immunities as a part of the Constitution, and becomes necessarily responsible to the judgment of the Community, by whose sole

sole arbitrement such infraction can be remedied.

A King, or Governors of any designation, irresponsible to the community in cases which exclude all other means of redress, would be as monstrous an incongruity, compared with the universal principles and necessary end of government, as a King, in the ordinary state of the *British* government, responsible for measures, which, in such state, must always have been resolved and executed by ministers in their known departments: who have a direct responsibility; in some cases, to the subordinate courts of justice, and in all to Parliament. Mr. Burke admits, that war may be justifiable by necessity against a King*: that punishment may be justified, if inflicted "with a regard to dignity," and the decorous gravity of national justice: for that "the punishment of tyrants is a noble and "awful act, and has, with truth, been said

* Page 123.

" to be consolatory of the human mind." It would, after this, appear sufficient to remark, that the only responsibility of which, at this day, any man can expect to hear, is, that which Mr. BURKE has expressly, and with becoming ardour, recognized. But this concession seems not long retained with consistency.

For if Mr. BURKE* has learnt that all persons are individually and *collectively* under the King, he has learnt more than can be well reconciled to any case or form of responsibility: he has learnt more from the law than *Bracton* found in it, whose King, greater than the parts, is inferior to the aggregate: *singulis major*; *universis minor*. He has learnt more than the most eminent, and not ambitiously popular, of our modern Lawyers, who quote with approbation this aphorism of *Bracton*.

If Mr. BURKE, after his experience in courts and senates, and the best societies (they

* Page 41.

are

are called the best) at home and abroad, remains persuaded, that words are strictly representative, and clearly discriminative, of powers, it may be too much to question the sense annexed to the style by which our Law speaks of the king, “ *our sovereign Lord.*”

Otherwise it might be said, with apparent probability, that it only denoted his pre-eminence as the first *executive* over the subordinate magistracies: and not a proper political sovereignty, such as derivatively is ascribed to the *Legislature*, figuratively to the *Constitution*, properly and absolutely to the *People*. But if it would not bear a meaning correspondent to the principles of constitutional freedom, it would be preferable to endure, or to disuse, a complimentary solecism, rather than to permit a form of expression to be an instrument of infringing or obscuring public and substantial Rights. And Mr. BURKE *, sensible of the facility with which titles of the lowest sub-

* Page 40-41.

mision may veil the invidious glare of the proudest domination, might as commodiously be reconciled to the possibility of pompous titles accompanying a limited and moderate authority.

There is much and elegant declamation on hereditary privileges in the Crown, the Lords, and the Commons: a constitutional inheritance in rights and liberties, illustrating the dignity of the People. And where Antiquity has been attended with uniform examples of Wisdom and Virtue, it reflects a lustre on those bodies which are thus distinguished. How far the Wisdom and Virtue of our two Houses, how far the conduct even of the Nation itself has maintained inviolate this inheritance of glory, I would not digress so far as to state on this occasion. But whatever privileges, whatever glory, are inheritable from civil institution, the rights of men, the honour of intellectual and moral agents, the illustrious rank of men determined to be free, is of date far higher, and of origin transcen-

transcendantly more venerable. It is an inheritance coeval with the commencement of humanity: its ensigns are the countenance impressed with the divine character of Reason; its gallery the extent of the habitable earth; its monuments the unperishable memory of the wisest, best, and bravest of the species of every age and country; its evidence, the voice of Nature; its title our equal relation to the Deity: from whom we derive in common, the powers, the obligations, and the correspondent Rights of man; Reason, Conscience, and Freedom.

But I must return to Mr. BURKE: left, misguided by a splendid example, of which it is more easy to imitate the errors than the excellencies, I should lose in the prospects which transport the mind out of itself, the subject which the less enraptured Reader is more desirous to see pursued.

If, with Mr. BURKE, the claims of title, of ancestry, and even of opulence, are high, the unplumed two-legged thing*, mere unsophi-

* P. 329.

ticated

ticated man, must be content with a very moderate estimation. To be allowed the choice of those, by whom his actions in Society are to be regulated, on whom the enjoyment of his property, his life, his liberty, and his reputation, must depend in almost innumerable respects, seems a decent and a necessary claim. To form, without apprehension of civil inconvenience, and to profess, without loss of civil privileges, those Opinions which are beyond the sphere of his civil duty, may seem another innocent and indisputable claim. But Mr. BURKE enquires, with all the tranquillity of an unconcerned Speculist*, when was it heard that in *Great Britain* any Province suffered from the inequality of representation; any District from having no representation at all?—Yet Districts, it was thought by Mr. Burke, might suffer for want of representation: or, in vain, he insisted on the wisdom and equity of admitting those to be represented, which successively became objects of taxation; and in vain applied the principles

* P. 276.

and facts to the *American* claim : and where the absolute privation is an evil, gross inequality can hardly be indifferent. I do not capiously oppose Mr. BURKE to himself : if I had meant no more than this, other opportunities were not wanting : but I mean to appeal to his steady recollection of right principles. The energy of Genius has a constancy as well as force ; and if he will reflect on the most honourable moments of his public life, (and they were days and moments to be preferred to an immortality of false praise) can it be possible he should continue to speak of the inequality of our Representation* as the insignificant topic of “ *a foolish complaint?* ” And to assert, of our present Representation†, that it has been found perfectly adequate to all the purposes for which a Representation of the People can be desired or devised.

And of *Toleration*, the clear view of philosophy and liberal policy, might have sug-

* Page 276.

† Ibid. 83.

geited, to a mind which ranges nature for relations and analogies, and has seen deep and wide into the principles of Government, and the interests of Communities, some firmer and more comprehensive idea, than that of favour in the shape of preference on the one hand, and negative indulgence* on the other. If I disfavour a religious opinion, I have my reasons, or merely prejudice : If my reasons, I produce them ; supposing that the question appears to me sufficiently important ; but I ought not to exclude, by disqualifying laws, a person who may be equal to any civil duty by his abilities and integrity, on the ground of his differing from me on a subject wholly of another nature. If the Term, Toleration, be too narrow for the rights which conscience, humanity, and the public interest requires us to recognize, let it be ennobled by giving it the most ample sense ; or if found incapable, as indeed it seems, of a just and adequate import, let it sink into oblivion, and religious

Freedom supply its place in our language, and in our practice.

More is said than, in this age, an ingenuous and enlightened mind might have been expected to utter, on the degrading ignorance attendant on certain occupations: and an apocryphal Writer of the Jews in their captivity is introduced, with no small degree of ceremony, to prove, that in those times, and in that state of the *Jewish** People, or of their imperious masters, men of so humble pretensions, as those of useful industry, were not thought qualified for public counsel. Yet it might not be impossible to find gentlemen of great landed property, and with all the external means of information, whose habits and employments, whose turn of thought and disposition, are far less favourable to knowledge, love of the public, and strenuous perseverance in the path of duty. The diffusion of great and leading truths, the opportunities of improvement, in the humblest station,

* P. 73.

have necessarily diminished much of this unhappy disadvantage : it should be the effort of philanthropy and of public wisdom, instead of contemplating those incidental and dubious disadvantages as a permanent barrier, separating the useful from the honoured classes in the Community, to soften all harsh and debasing prejudices, all injurious impediments, to expand the gates and enlarge the avenues to the Temple of Honour and of public Counsel, and to encourage the probability of not losing, by exclusive attentions to the mere *presumptions* of merit, one spark, wheresoever latent of animating virtue, beneficial by its direct energy, and more abundantly beneficial by the example thus circumstanced.

A surrender in trust of the whole*, even of factitious property, to preserve a part, is a compact so unequal as rarely to be necessary ; but a surrender of primary independent rights, to preserve secondary and adventitious rights, the whole of natural liberty for a precarious portion of civil, is an imaginary compact so

* P. 88.

replete with more than paradox, so incompatible with every idea of reason and justice, that the wildest imagination never created such a chimera: if it were a novel thought, its strangeness might be supposed a sacrifice of reason to the seductions of the marvellous: but after the arguments repeatedly adduced, to prove it destitute of all possible foundation, I quit it without reluctance, for the plain opinion which has nothing in it to surprize, that man, by uniting himself to civil society, resigns no rights but such as are inconsistent with the end of such society. He remains judge in his own cause in all those instances, and they are many and of prime importance, in which it is impossible Society should judge for him. He remains with his full right of self-defence; suspending only the exercise where he is more effectually defended by Society. He remains his own governor, by the right he has to share in the formation of those laws which are to govern the Community, of which he is a part; he retains his

right of determining what is just, universally in opinion, and in many cases, in practice, where the law cannot interfere ; and where he submits to decisions which he thinks otherwise than just, it is in conformity to two principles, independent of any positive sanction, that it is just to suffer a particular inconvenience, rather than to refer every thing to private interested opinion ; that it is just, having submitted to make Society the arbiter of differences, (without which submission, Society could not exist) to acquiesce in the decisions which Society shall make.

The distinction does not rest in theory ; for if there are *natural* Rights which do not enter into the deposit, as being out of the competence of Society, these Rights, clearly ascertainable by their characteristic differences, can, by no colour of claim, be brought under the authority of municipal law : and, indeed, those which are held in trust, (the suspension of the ordinary exercise of them by the individual being necessary for the peace and order

of the Community,) may be rather said to be held by the Government, in trust for the Society and the individual, than directly by the Society at large. If, therefore, any part of the Government transgresses, or neglects this trust, the delinquency must be examined before the appropriated judicial authority. And this is the most distinct idea, which occurs to my apprehension, of the nature of the implied compact, between the individual and Society ; of the tacit reservation of Rights not within the cognizance, or not within the scope of Society ; and of the manner in which those Rights, which are deposited in trust, may be considered to be vested, so as to secure the necessary responsibility, if that trust be violated. Adding only, that if it be violated by those who represent the power and will of the Society itself, the redress can only be by the extraordinary and collective interposition of the Community as such.

From supposing a surrender of the whole Rights of the individual to Society, Mr.

BURKE seems to pass to a supposition equally ill founded, and if possible, a more harsh idea, assuredly more obnoxious to frequent mischief in the practice, a surrender of the whole Rights of Society to certain governing individuals. The first surrender was presumed necessary, to prevent the passions of the individual from breaking the order of Society, (though that prevention, so far as it is practicable, is best secured by supposing him to have surrendered no Rights, but those which he cannot exercise without disturbance to Society.) The second, is presumed necessary to prevent the will and passions of the Society from acting irregularly and detrimentally; and this, it is said, is only to be done by "a power *out of themselves**," and not in the exercise of its functions, subject to that will, "and to those passions, which it is its office to bridle and subdue." But as this power, extrinsic to the mass, is an human power, artificially and conventionally alone, separated from the Society of which it was an indif-

* P. 89.

tinguish-

tinguishable part, previous to its appointment, if it has strength committed to it to bridle and subdue the whole, by what shall itself be subjected to restraint; and do not all partial interests and passions, incompatible with general good, act with greatest and most permanent force in the production of evil, when small and insulated masses are exposed to their influence? There is in the general aggregate, a common sympathy, a temperament of partial interests and prejudices, which is not to be expected from detached classes, actuated by the *Fsprit de Corps*, and surrounded with temporary and local objects, often more relative to their particular situation than to the general welfare.

It seems, therefore, that it is not by setting as a Guardian and controller over the Public Will, the Will of a detached Body, that the tranquillity and welfare of the Community will be best promoted; but rather by ministering the fewest incitements to partial interests, such as delegation of Power not fully

fully and freely flowing from the general source, but derived from a partial channel, of the qualities of which it will partake; such, again, as long continuance of power in the same hands; political privileges to particular classes, not essentially promotive of general benefit; liability to decisions on sudden and occasional inducements of eloquence or cabal, to be immediately executed; without deliberative restraint, by the interposal of a distinct body, not likely to be impressed at the same time, by the same partial influences directed to the same point; exclusion of any part of the Community from the common interests, and from admissibility to the common functions, without crime; establishment of a military body, or of any order which by wealth, or direct power, or influence on the public opinion, can affect the general operations of Society, detached and contradistinguished from the general interests; instead of leaving the defence, the instruction, and the honorary distinctions of the State, to circulate as freely as circumstances can admit, according to the natural

natural or acquired powers of its members. But as in every flourishing and long subsisting Society, continued prosperity and eminent descent, in certain families, will always tend to something of aristocratical interest ; accumulation of wealth, by commerce or manufacture in others, in a remarkable degree, to an Oligarchy, and these will require to be controlled by the equal virtue and social spirit of a Democracy, which also requires to have its tendency to unadvised determination, balanced by the gravity and prudence of the other descriptions ; these powers and principles kept in their due distinctness, and the preponderancy preserved to the more general interests, without hazarding the security of the others, give the elements and form of a Constitution, which unites the largest portion of stability, efficiency, private security, and public freedom. It is manifest it will partake more largely of the democratic than of any other character, as the popular interests are, both in extent and importance, of the chief con-

fidera-

sideration; though every interest which can have place in a free state, without prejudice to its freedom, ought to be sufficiently protected. This is the only notion I have of justifiable, or safe and permanently effectual means to bridle and subdue all partial interests, so as to prevent any irregular will from obtaining an ascendance to the detriment of Society. And it is only by such ascendance, that the will of the general mass, disinterested, pure, generous, and tranquil, of itself, becomes interested, corrupt, selfish, turbulent, destructive.

The Simplicity which comports with the idea of a system, (and all political Government is a system) consists in its being exempt from unnecessary, disconnected, unduly united, or disproportioned parts.

This Simplicity, therefore, is not characterized by fewness of parts, but by Harmony and Freedom, and Energy of Operation, and by giving the least impediment to natural Right; for, to adopt the comparison* of Mr. Burke, all unnecessary complexity operates as

* P. 91.

a dense

a dense and unequal medium of refraction on the rays of light; but the more and more unequally refracted, the more dissipated their force, and the less true their representation: the fewer principles of natural right, therefore, are applicable to a government, the more unequal the condition of men in it, the worse is that government: and to praise it for its refined complexity, on account of the difficulty of applying general truth to it, is like praising a telescope for having superfluous lenses, serving only to obscure and confound the object.

From his principles of general Government, in those points which he regards as containing the great outlines of a Constitution, Mr. BURKE proceeds to those incidental obstacles from prejudice and habit, to which a wise legislature is to apply his attention. And I own that I do think with him, that there are occasions where it is the best prudence to be tender, even to an apparent extreme, in the treatment of customs which have blended them-

themselves with the opinions, the habits, the earliest and the latest views of a People. Light is to be offered : but in vain will it be forced upon them. And I do not see how even the greater part of a Community * can compel, without injustice and an unestimated infliction of suffering, a class of human beings, taught to form their views, their sentiments of obligation, their habits of thought and action, their hopes of comfort, and all the associations which constitute the character and disposition, upon a scale remote from the general usage of life, to quit thier solitude, and be cast, unprepared, unconnected on the World. I do not see how, on the other hand, a religious order which the people has long beheld under certain circumstances, can suddenly and compulsively be placed in different and contrary circumstances, without great and unmerited distress to many individuals, and without essential disadvantage to the state, which always suffers by a diminution of con-

* Page 231.

fidence when ancient privileges and advantages are seized from their possessors, without fair and full proof of their delinquency, or of the utter incompatibility of even the temporary continuance of the institutions on which they are founded, with the public security and freedom. A good and wise Government would certainly never attempt to create and nourish prejudices for the sake of governing by them happily * ; indeed, on the whole, it is true of prejudices, that they must be *found*, they cannot be created to serve an occasion : but those which it finds it would treat as Nature, in her general œconomy, does the mists and vapours, so often the harbingers of a mild, splendid, and genial day. If suddenly precipitated, you have a chill and comfortless, if hastily driven by impetuous winds, a tempestuous, if not destructive day : but if gradually subsiding, as they generally do, as the influence of the Sun advances from the dawn to the perfect day, they melt kindly

* Page 233.

and insensibly into the untroubled sky ; all is tranquillity, and progressive illumination. I think with Mr. BURKE, that prejudices are generally so relative to the state of a People, so incorporated with right sentiments and assimilated to the best affections, so attached to the heart, and so slowly corrected by the understanding, that an attempt at once to expel them would not accelerate, but retard perfection ; not introduce Order, but be the too readily obeyed signal of Confusion.

I should therefore be no friend to any forcible means which should secularize the monastic orders of a State, or in a manner dissecularize the others : should trample on the solemn ornaments of the Churches, or infringe the stillness of the Cloyster. To me, and to many, Religion is in her proper garb when simple and unadorned : but if the custom of others has been to present her to their imaginations in habits which to their idea are more suited to her native dignity, the end of both may be still the same : the habitual

veneration

veneration of the Deity, the dispositions of Purity and Benevolence may be forming equally under different means adapted to our different tempers and early use. If we both are left at liberty to pursue our respective modes of expressing our common Duty, without loss of civil or social estimation, all is right. But of those in *monastic* orders I understand, that they have the *option* given, not the necessity imposed, of quitting their Cell.

Of the Prejudices even of *Chivalry*, a Term now of Ridicule and of the last Contempt, Mr. BURKE regrets the Loss. I shall not conceal that to no inconsiderable degree I can share in this Regret: and could almost entreat so much from the indulgence of Reason and Philosophy as pardon for a wish that those splendid and engaging Visions might have been permitted a longer stay. But they *are* gone: and Ease, Opulence and Luxury have substituted other Prejudices of less noble aspect, of less pure and benign influence, less friendly by far to intrepid, generous, and

persevering Virtue. I agree too, that the Respect, the delicate, the virtuously refined and dignified Attention to the Sex, the enthusiastic Admiration, and Constancy of Esteem, and, animated by these, the glorious Ardour of noble Enterprize, of approving themselves by Fortitude and Virtue, by Humanity and Beneficence, by every graceful, every generous, every estimable Quality, inseparable from Men who felt in its full power the attractive Dignity of female Excellence;— Men whose passions were chastized and exalted by the purity of their object, and in whom the most transporting of Affections added energy to the sublimest Sentiments;— that these giving way to vague, and light, and temporary, and debasing Regards, to a frivolous and insulting Gallantry, to a dissipated and licentious system of habits, opinions and conversation, that this is an exchange injurious to Society indeed; both in those sentiments it has relinquished and those it has adopted: both in domestic manners

and

and happiness, and in public Virtue. It is to the acknowledged importance and correspondent influence of the Sex in Society, that we must owe the regulation of our Tempers and Conduct, the earliest, and in the progress of life, the most persuasive Motives to the improvement of our Minds ; and which is of the first importance, the cultivation of the Heart. As Sisters, as the objects of a tender, animated, delicate Attachment, as Wives, as Mothers,—our complacency and satisfaction in ourselves will be proportioned to the view in which we consider them. And where all is Peace and Concord, reciprocal Respect and Esteem, in Families, in consequence of the general Habits and Opinion being favorable to the proper Perfection of the female Character, it would be idle to enquire whether a People, composed of the union of such Families, could be other than free, virtuous, and happy. But Mr. BURKE recollects, that it is not in modern Courts the spirit of Chivalry could be expected to revive, or to exist :

—Manners formed under Governments approaching to the Republican would restore to us:—not its Pomp indeed, but its true Value: its Simplicity, its Purity, and Elevation. And accordingly I understand there is more of this Spirit in America than in any part of the Globe, and its effects were sensible during the contest. In leaving this subject I shall most cordially acknowledge, that I can represent to myself no Image of Virtue which so vividly and persuasively can impress the Mind, as the Idea of a truly amiable Woman. Nothing which exalts the Thought by a more immediate Analogy to the contemplation of celestial Purity and Goodness. But with the Ideas inspired by this Vision, I cannot blend any of a more uncertain Texture. Mr. BURKE, indeed, has presented to the eye a Form characterized by such melancholy Dignity and graceful Elevation, as perfectly harmonizes with the striking scene. Such a Form the Muse of Tasso, Spenser, and Milton, would have presented to their enraptured view: for such

such a Form our Surrey, Douglas, Devereux, and Percy, the Henries, the Condé's, the Montmorencis, would have blazed in the Tournament, and courted Death in the Field. The Interest is heightened by contrasting it with another Portrait of the Goddess of his Idolatry, such as she appeared in a different state of France, and of her own prospects :— touched with an ease and lightness, a softness and amenity indescribable. And again availing himself of the effect of such a delineation, he strikes us with whatever is most forcible of Terror and Pity. Against a Form so sublime, so interesting, so enchanting, we view, with horror and consternation, the Poignard of Despair, drawn from that Bosom which has engaged our tenderest and most respectful sympathy. But I am not addressing myself to the Passions : and I dare not trust myself at present with another view of such a Representation.

Non hoc iusta sibi tempus spectacula poscit.—

Of the *Queen of France* I think silence the best Tribute of Respect which I can pay to her Sex and situation. Neither her Champion nor her Panegyrist, if I cannot lessen her sufferings, I shall not encrease or create Danger. I shall not, by an incautious Praise, (I may be forgiven if I term it so) hazard the urging of an agitated spirit to an Act of Desperation. From a gallant and generous People, who, in the highest Ferment of a sudden and unexampled Revolution, in the midst of Danger and Suspicion, of enthusiastic Zeal, and the Tumult of instantaneously excited Myriads, retained their sensibility, I shall not believe she has any insult to fear: or that she can be a Victim to popular Emotion: unless in a Conflict, which there is every Motive from her Situation, that of her Husband, her Children, and of the People, never to provoke;— a Conflict between the Monarchy, and the Rights and Liberties of the Nation. But before we quit the advantages derived from the striking Pageants of *Chivalry*, let us do some

some Justice to a Spectacle which general *Liberty* alone could exhibit : and which Mr. BURKE, his Taste and Feelings triumphing over his Prepossessions, cannot contemplate without complacency. A Spectacle which neither the *Olympic* Celebrities, nor the Mead which witnessed the signing of the GREAT CHARTER, nor the vast Plains of *America*, overspread with the peaceful Banners of triumphant Freedom, can excel by their united Impression. A Scene more affecting, animated, sublime, our Earth, while its present System continues, never can exhibit :—that of *five hundred thousand* of our species, assembled in perfect Order, Amity, and Joy, to hail the Rise and confirm the Perpetuity of their Happiness *.

I own, as to another Prejudice, never advantageous to Society, that of *Atheism*, I have no fear, if a Constitution of Freedom and Permanency settles itself in France. Atheism

* See *Miss WILLIAMS's 2d Letter.*

can hardly exist : much less spread itself, and obtain an influence in a Society where there are Manners, Science, and Liberty. But it is not well to group Atheists, and those who are called Infidels, indiscriminately. It is not well to class all who are called Infidels together. I mistake, if one of those in Mr. BURKE's list, except *Bolingbroke*, denied the moral Attributes of the Deity.* I mistake, if some of them are not still read, not only by Infidels but by rational and sincere Christians. I much mistake if there is in them, (even take the least considerable, or the least ingenuous in the List) nothing which deserves reading ; or any thing in the ablest, which should excite panic apprehensions. In ENGLAND *, Mr. BURKE does not seem to dread them : FRANCE too can think, and can decide for herself †.

I say nothing of an Image, which classic Taste, the Politeness of the Gentleman ‡, and

* Page 133.

† Dr. Towers, p. 112, 113.

‡ Burke, p. 135.

the Mildness and Philanthropy of the *Christian* could not have admitted but in the sudden effervescence of an agitated Fancy :—nothing of the Alembic; nothing of the delirium; nothing of its shameful effects, or of any of that portentous imagery which rises in the affrighted imagination of this distinguished Orator. I see no more probability of our throwing off the *Christian Religion* than of our throwing off Laws, Manners, Arts, and Science, and hurrying ourselves in distracted herds, in one general paroxysm of phrenzy, to the beasts of the wilderness, or the monsters of the deep. Much foreign commixture may long continue to blend its base alloy with the Doctrines, to detract from the Evidence, to obstruct the Reception, of Christianity, and impair its Efficacy. But there is a Point in the progress of Society, and I think that Point has been long reached, which will not admit the possibility of a relapse into total infidelity, irreligion, and barbarism. I cannot, therefore, believe, that the new ecclesiastical Establish-

ment

ment in France* is introductory in design, or that any could be so in effect, to the abolition of the *Christian Religion* in all its forms. Still, highly as I think of Religion, and convinced as I am †, that “ *all persons possessing any portion of power, ought to be strongly and awfully impressed with an idea, that they act in trust, and that they are to account for their conduct in that trust to the one great Master, Author, and Founder of Society,* ” I would wish their attention not to lose sight of that temporal Account which subordinate Governors owe to the Legislature, and the Legislature to the People. And much as I respect our political Constitution, I by no means entertain such an idea of its perfection as to be convinced, that “ *an established Church, an established Monarchy, Aristocracy, and Democracy, each in the degree it exists ‡,* ” comprises all that we ought to wish. Nor am induced to think it the misfortune of this

* Page 219. † Ibid. 138. ‡ Ibid. 135-136.

age, that every thing respecting our Constitution is discussed. If every thing is right and secure, we shall enjoy it the more, from the rational confidence attendant on the result of investigation ; if any thing is defective or unstable, we shall the better apply the remedy. A Constitution, which in this day could be overthrown or endangered by discussion*, would not merit solicitude.

From these general Disquisitions which concern the Principles of Government, and particularly of our own, I proceed to say a little on that part of Mr. BURKE's Letter, which concerns the measures relative to the NEW CONSTITUTION of FRANCE.

I shall not attempt to ascertain the degree of Accuracy in his sketch of the NATIONAL ASSEMBLY. I suspect it must be considerably *caricatured* ;—not intentionally, but under the unperceived bias of prepossessions. I suspect it, from their Popularity for so many and such trying months; their stability against the Aristocratic Party ; their disinterested-

* Page 136.

nefs and fortitude manifested, I think, in several important instances. I shall not attempt to discuss the Question of their Finance. I shall only say, that in all great Changes the settlement of Finance must owe much to time as well as to diligence, industry, and integrity. It was so in America. And a Gentleman has informed me, that in 1696, the Notes of the BANK of ENGLAND were so far from having established their Credit, that they passed at a *Discount*. The Answer of *Themistocles* has a pertinence to this subject, when consulted by a man who wished his opinion concerning proposals of Marriage to his Daughter. *Better a Man of Merit without Money, than of Money without Merit.* A good Constitution will find Finance: but Finance will not find, or supply the want of a Constitution.

There are many other Points of a subordinate Nature, and of local consideration, which I leave to the Friends of Liberty in that Country: as I do the more full and circumstantiated

cumstantiated explanation of the State of FRANCE, previous to the REVOLUTION, their Conduct at the time, and the present State of the People and Government.

I shall observe, briefly, on some particulars respecting the CONSTITUTION, which has been formed by the NATIONAL ASSEMBLY, and which struck me as the events were made known, before I could be apprized of their effect on the mind of any other person.

Though I acknowledge that the *Revolution* itself was best conducted, and perhaps could only have been accomplished by a *single Assembly*, I thought, and the opinion continues, that for a permanent Form of Government, a *Senate* would have been highly expedient as a check on precipitate decisions, temporary influences of faction, and the mischief of more fixed Cabals, derived from a conformity of partial Interests. A leaven of this kind in a single legislative Assembly, is in danger of acting secretly, until it corrupt the mass before the danger has excited any competent

competent degree of alarm. Mr. BURKE, probably, does not hold the same views which would strike me relative to the appointment and duration of this *Senate*. Hereditary, I think, it should not have been: nor even for life, but for a fixed and moderate period.

I almost liked as little as I find Mr. BURKE does the circuitous Mode of the Choice of Representatives. To maintain the spirit, and to answer the design of Election, the relation, I think, ought to be immediate between the Constituent and the Elector. Mr. BURKE has given one of the most essential Reasons for this so well, that I think it cannot be stated more clearly, or with greater strength*. And farther, to all complexity in a political System, especially in the popular part of it, if it were less liable to direct exception, it is sufficient against it if it be unnecessary. It will be the sooner out of order: and the disturbing Cause will be less easily traced, and the consequent mischiefs with more difficulty repaired.

* Page 277-279.

I was never easy with the Confiscation of the Possessions of the Church. And I think, independent of the present convenience, the offer of the Clergy ought either to have been accepted, or without accepting any thing in the shape of compromise, or seizing any thing, the National Assembly should have exerted itself in the discovery of less invidious resources. The security of property to its present Possessors, in the most trying circumstances of a State, is itself a grand resource : and would have been a Revenue worth more than all that was offered, or could be seized. A better distribution in respect of the Body of the Clergy, I think, does not cancel the objections to the seizure. The present Possessors, in policy, and on higher considerations, ought, I think, to have been undisturbed ; unless, fairly and fully, any of them were convicted of crime : and it was not the season to seek for such convictions ; which, in critical junctures, have the air of proscriptions in disguise.

With the Abolition of Titles and armorial Bearings, I can not profess myself pleased. They conveyed no claim to legislative Authority independent of choice. They have some reference to domestic sentiments of affection, and respect : some tendency to cherish the remembrance of public Virtue, distinguished in Council and in the Field. Many who possessed them, had not overlooked, in these artificial Titles to respect, higher objects of generous ambition ; but had disinterestedly, and with zealous alacrity, co-operated in the cause of Freedom. They had levelled, to make place for her Temple, and to fix its foundations, whatever of their own could really menace its security. That many of them bore Agnominations, which dwelt in the public ear, accompanied with the animating remembrance of Courage, Wisdom, and public Virtue, from which they had not degenerated, could be no such injury to the Public, at such a crisis, as to require resorting to a measure so very strong. That no advantage, absolute

or

or imaginary, of any individual, should be wrested from him, if he can hold it consistently with the public Welfare and Freedom, is, an obvious Truth, I acknowledge: but so are all Truths of the first importance: and it will not, for that reason, the less merit to be repeated. The Truths, which are simplest and the most general, and consequently require the least reflection, are too apt to take the slightest hold of the mind; to be soonest lost in the ferment of the passions, whether private or general; and to yield the most easily to the novelty of specious wonders, suggesting themselves to the ardent mind in the pursuit of improvement.

If, in this instance, too little regard has been paid to Prepossessions of one kind, too much seems to have been shewn in another to those of a different kind. The Qualification for the exercise of the elective Right, in the first stage, the local value of three day's labour to the Public, is too small to be any pledge of independence * : and it infringes the Prin-

* Page 259.

ciple which justly regards the Choice of a Representative as a Right attached to the person of the Citizen, not to his property. This inconvenience is very serious: and the more, because, once admitted in a new Constitution, it has a tendency to furnish a Basis for more and more restraints: though less so by its being estimated in labour, than if it had been appreciated in money.

The *Deputies* to the NATIONAL ASSEMBLY†, who are chosen by these primary Assemblies in the *Canton*, sending Deputies to the *Commune*, who chuse others to the *Department*, by whom ultimately those to the Assembly are chosen, must pay in direct contribution to the value of a mark of silver: and none can be elected to the *Commune*, who does not pay the amount of ten day's labour. Of these Barriers of Election and Qualification, I fear Mr. BURKE has expressed himself not more forcibly than justly, when he speaks of them as impotent to secure inde-

† Page 258-259.

pendence :

pendence : strong only in destruction of the Rights of Men.

Without speaking with such warm Censure as Mr. BURKE, I confess myself, at least, doubtful, whether a Representation, formed in three equal Classes, on the distinct Basis of Territory, Population, and Contribution, has any such advantage as should give it a clear preference to the simple proportion adjusted by Population only.

With regard to the executive Department, whether the taking the Power, in the first instance, of Peace and War, out of the hands of the King, will be consistent with the independence and purity of the legislative Counsels, with respect to foreign Powers, ought not, I apprehend, to be too hastily decided in the negative. The drawing of the sword, and disposing of the lives of the subjects of the State, and of those of other States, by commencing War, is, indeed, a tremendous Power to be entrusted to any individual : it is a Power, enabling the caprice or private resentment of an individual so entrusted,

to rob and murther on an unlimited scale, (the terms are harsher than I would use, if others would express the fact) in the name of the Community, and at the public risque of territory, safety, and estimation. The subsequent check, by withholding of supplies, is found, as might be obviously presumed, difficult in exercise, and of very doubtful effect*.

In case of sudden *Invasion* the executive Power must undoubtedly act on the emergency. No Law can be understood to derogate from this Necessity of the national Defence.

One remark only I shall make farther, which concerns the *executive*: and that relates to the judicial department. I cannot speak unconcernedly of the purchase of an Office in the Administration of public Justice. *Male semper Res geritur quam quod Virtute effici debeat id tentatur pecunia.* If the person purchasing is incapable, it is an Act of Corruption to admit him; if capable, the Honour

* I have since seen this treated by Dr. TOWERS with his usual Ability: and the limits marked with very satisfactory Precision.—*Thoughts on the Commencement of a New Parliament.* P. 347.

of the Public, and a due Attention to the Individual, require him gratuitously to be admitted to an employ, which, without the highest Crime, he cannot exercise otherwise than gratuitously. Thus far, therefore, I think was wise and necessary. But I cannot see in the same view, the Choice of Judges elected for a short Period. I apprehend, the experience and independence required in the judicial Character, militate against such an Institution. He is to interpret Laws, not to make them. There seems, therefore, no reason to dismiss him from his Charge; as a *Representative* should, at short and certain periods, find himself obliged to return for the approbation, or rejection of his Constituents*. Only proof of misconduct, or of intervening incapacity, should remove from the Office*: where its functions are exercised not summarily and in petty Districts, but generally, and with the

* The Principle is clearly and forcibly expressed by *M. Calonne, De L'Etat de France*, p. 308-9. At such an interesting Moment *Veritas, a quocunque dicitur, a DEO est*: is a Maxim worthy of regard. There is much of political sagacity in many of his Observations.

intervention of Juries, with all the solemnity of a Public Tribunal. And whatever subordinate Magistracies may be expedient, such Judges appear necessary to the Dignity, Independence, and universal Efficacy of Public Justice.

I think, therefore, Mr. BURKE* appears to be well founded also in objecting to the want of adequate extent in the local comprehension of the New Judicatures.

I have now offered whatever has occurred to me as chiefly worthy of attention in Mr. BURKE's Letter respecting the principles and effect of our REVOLUTION; the Constitutional inferences deducible from it; the leading points of popular Right; and the principal Defects, as they appear to me, in the Constitution which has been recently introduced in FRANCE. If in these, or other points, it shall appear to the NATIONAL ASSEMBLY, or to the People from whom they derive their powers, that the New Constitution requires reform, I see no reason for doubting

* P. 303, 304.

the exercise of that wisdom and magnanimity, which the adoption of the necessary amendments would demand and imply. But with all its apprehended defects, and I have mentioned them with a respectful and zealous frankness, I think it signally* preferable to the Form of that Government, (if Form it might be called) in the place of which it stands.

Having concluded, with sincerity I am sure, and to the best of my judgment, these principal subjects of enquiry, I proceed to some of a more limited and private nature:— those which relate to my rever'd Friend Dr. PRICE, and those Remarks which are aimed at the two *Societies*, the *Revolution* and the *Constitutional*, of which I have the honour to be a Member.

With respect to Dr. PRICE, what I shall have here to say, will be only a testimony of my concern at the hasty and vehement expressions, (I wish I could stop there without a farther reflection which will present itself to the mind) which Mr. Burke has used

* Dr. TOWERS, p. 96-9.

towards a character, animated, I am convinced, with the purest attachment to the interests of humanity ; a character, of which the known candour, mildness, and disinterestedness, ought to have exempted it from such imputations, from any person who respects and loves the only genuine objects of affectionate esteem ; Virtue, and Benevolence.

Dr. PRICE, in the Preface to the Fourth Edition of his Sermon, has answered all that seemed any way essentially to require an answer : by shewing that the joy which he expressed in his discourse, was not occasioned by the tumult and outrages in October, 1789, but by the events of the 14th of July, and the subsequent days, when after the taking of the BASTILLE the King sought the protection of the NATIONAL ASSEMBLY, and was conducted to PARIS by his own desire, amidst acclamations never before heard in FRANCE, to shew himself to his people as the restorer of their liberties.*

* Preface, p. 7.

The principles and observations of Dr. PRICE stand by their own strength : his own clear, energetic language, will transmit them to Posterity with their just weight. I have already had occasion to refer to several of them in these remarks.

Of the CONSTITUTIONAL SOCIETY, and their Reslove, I have to say only, that they adopted with a general introductory vote the Reslove of the REVOLUTION SOCIETY. The particular attention of the NATIONAL ASSEMBLY was therefore naturally shewn to that Society which had first given its testimony to that great event, so interesting to the Friends of liberty, and of human happiness, in every part of the globe. It was not between the two Societies a competition for praise. It was an united wish to express their congratulations on an event of such importance, in its general tendency, to the happiness of a great neighbouring Nation, and of human Society. I believe that the Reslove of the CONSTITUTIONAL SOCIETY

SOCIETY was never formally voted for transmigration. I never heard that any Member of that Society thought it slighted. But thus much may be observed :—That Gentlemen who from habit and situation are under a necessity of saying much, are in danger of sometimes speaking without sufficient information. This has happened. The CONSTITUTIONAL SOCIETY* has none of that kind of charity so liberally imputed to it ; none of that merit with the Booksellers of making books vendible, which would otherwise lie upon their hands. If it could relieve that Fraternity from such a load, it would be one of the richest Societies in the World : and consequently, with Mr. BURKE, who allows amply in the political scale for the weight of opulence, would fully authorize all the alarm and anxiety he expresses. The CONSTITUTIONAL SOCIETY has published few extracts from printed Books : and those generally from such as had no need of their

* P. 3.

assistance.

assistance. They have published Addresses to the Public, Resolutions, and Reports; relative chiefly to the Election and Duration of Parliament. If at home Mr. BURKE failed of this easy intelligence, it may very well be imagined (and it is asserted that it has happened) that he may have lamented the death of a victim to the Revolution in FRANCE who is living and in health; and that he may have commiserated innumerable calamities of that Country, which have owed their existence to the suggestion of those phantoms which haunt the dreams of the *Anti-revolutionists.*

The RESOLVES of both Societies are inserted in the APPENDIX: the Public will see they are not applied to particular facts, or measures, subsequent to the Revolution: but to the general aspect and grand features of that ever memorable and unparalleled Event. And if the accession of an Army, so long the great instrument of Despotism, to the cause of rising Freedom; if sweeping from
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the earth that adamantine Fortress of insidious and most cruel tyranny, the BASTILLE ; if the Abolition of LETTRES DE CACHET ; the Vindication of Liberty of Conscience ; the Introduction of Liberty of the Press ; the Trial by Jury, where Life, Liberty, or Reputation are concerned ; the substitution of the Representative Will of a great People in the place of the Arbitrary Will of an individual or of secret Favoritism ; the extinction of Seignoral Privileges, and particularly of the Game Laws, those oppressive and ignominious Badges branded on the sufferance of the Community by fœdal Tyranny ;—if the Recognition of the Natural and Civil Rights of Mankind, and the Progress made towards reducing them to Practice ; if the Pledge of Peace and Amity tendered by the New Constitution as its First-Fruit and perpetual Vow to the surrounding Nations ; if the Diffusion of Light, Liberty, and Happiness, which such an Expansion of the Human Powers, such an Emancipation of THIRTY MILLIONS of Men promises to Mankind ; if these are not subjects of diffu-

five Joy, of rational Gratulation, of benevolent Triumph, I am at a loss what Event can take place, till the final Dissolution, at which a Friend of Liberty and of Mankind can have cause to rejoice.

I have now concluded those observations, which, at no easy hour, I thought due to the Principles of Freedom; to the Constitution of this Country;—worthy if its spirit were observed in its most essential branches, of no mean *Encomium*;—to the situation and conduct of the People of FRANCE; and to those, whether Public Bodies or Individuals, who have expressed their congratulation on the Fall of an arbitrary Government, and their hope of success to the united Exertions of such a People for establishing a free Constitution. I look for no Fame:—and I have neither indulged the leisure, nor employed the means, by which, on occasions such as this, Fame is to be purchased: poignant raillery; artful insinuation; the turns of expression; the pomp of imagery; the management of the passions;

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the captivating preferences to wealth and station. I am not insensible to the charms of style, and can admire the graces of composition. I am at this moment, however, occupied by other than these attentions: other employment of my thoughts prevented me till *Tuesday* from seeing the Letter of Mr. BURKE. But the general principles on which the question must chiefly turn, I had not now for the first time to consider. Be his the brilliant and dazzling arms; if I can oppose to their otherwise resistless edge, the impenetrable shield of Truth and Freedom. To have merited the praise of elegance, if at last it could have been merited, much more time must have been devoted: but for all which is of serious moment, the substantial discussion of the most material points, possibly, if the hours devoted to it, though few, have not been sufficient, more would have been employed in vain.

I hope it will appear, that the Right of deposing unjust Kings for their misconduct;

the Right of the People to chuse their Governors, and to form their Government, were included in the principles, and practically asserted by the event of the REVOLUTION; that the change of the *French* Government, from the rule of arbitrary will in an individual, to the free expression of public consent, the sacrifice of the cruel Privileges of the few to the equal Rights of the Nation, was a just subject of Joy and Congratulation, from all who look forward to the progressive emersion of the human race, from the gloom of oppression and the horrors of servitude; and that the individuals or public Bodies, who have testified their satisfaction in the prospects opened to Mankind by such an Event, have by no means deserved reproach. If these points are established I have nothing, on this occasion, to wish beyond.

George-street, Hanover-square, 27 Nov. 1790.

CAPEL LOFFT.

A P P E N-

A P P E N D I X, No. I.

E X T R A C T

FROM THE

P R O C E E D I N G S

OF THE

R E V O L U T I O N S O C I E T Y,

*At their Anniversary held at the London Tavern,
Nov. 4, 1789.*

The RT. HON. EARL STANHOPE in the Chair.

THE COMMITTEE concluded their Report, with congratulating the Members of the Society, as *Britons* and Citizens of the World, upon that noble spirit of civil and religious Liberty which had, since the last meeting, so conspicuously shone forth on the Continent; more especially on the glorious success of the French Revolution; and with expressing their ardent wishes, that the influence of so glorious an example may be felt by all mankind, until Tyranny and Despotism shall be swept from the face of the Globe, and universal Liberty and Happiness prevail.

Dr. PRICE then moved, and it was unanimously resolved, that the following congratulatory Address to the

NATIONAL

NATIONAL ASSEMBLY of FRANCE, be transmitted to them, signed by the Chairman.

“ THE SOCIETY for commemorating the REVOLUTION in GREAT BRITAIN, disdaining national partialities, and rejoicing in every triumph of Liberty and Justice over arbitrary power, offer to the NATIONAL ASSEMBLY of FRANCE their Congratulations on the REVOLUTION in that Country, and on the prospect it gives to the two first kingdoms in the World, of a common participation in the blessings of civil and religious Liberty.

They cannot help adding their ardent wishes of a happy settlement of so important a Revolution ; and at the same time expressing the particular satisfaction with which they reflect on the tendency of the glorious example given in FRANCE, to encourage other Nations to assert the unalienable Rights of Mankind, and thereby to introduce a general Reformation in the Government of EUROPE, and to render the WORLD free and happy.

STANHOPE, CHAIRMAN,

A P P E N D I X, No. II.

At a GENERAL MEETING of the SOCIETY for CONSTITUTIONAL INFORMATION, held at the Secretary's, Tavistock-street, Covent Garden, Friday, Nov. 27, 1789.

RICHARD SHARP, Esq. V. P. *in the Chair.*

RESOLVED,

I. "That this Society cannot, consistently with the sense it entertains of the primary object of its Institution, be indifferent to the exertions of a neighbouring Kingdom, for regaining to the Community those Rights of Representation, the exercise of which had been long lost."

II. "That this Society adopt with pleasure, the underwritten Resolve of the Revolution Society."

Then followed the Resolve already inserted, with the Recital of the date and occasion of the Meeting, and with this preliminary Clause :

"A REPORT from the COMMITTEE was brought up; and the following RESOLUTION was moved by the Rev. Dr. PRICE, and unanimously approved :

"The Society for commemorating the Revolution in Great Britain, disdaining," &c.—ending with the words, "free and happy."

At a GENERAL semiannual MEETING of the SOCIETY for CONSTITUTIONAL INFORMATION, Decem. 16th, 1789.

JOSHUA GRIGBY, Esq. M. P. PRESIDENT,
In the Chair.

RESOLVED,

That this Meeting feels itself powerfully impelled to express its Congratulations on the Prospect of a complete
Emanci-

Emancipation of human Society, from political and intellectual servitude.—A Prospect, manifesting itself, as in other great instances, so especially in the concurrent disposition, which having been displayed in *America* is now pervading *Europe*, of resisting all restraints on the *Freedom of Enquiry*, or *Exclusion* from the exercise of any *Civil Rights* on account of *religious Opinion*.

A P P E N D I X, No. III.

THE underwritten RESOLVES are so clearly and forcibly expressed, have such reference to the Principles of our *Revolution*, as they appear to me, and comprise so many, and powerful Reasons for preferring the new Constitution of *France* to its late Government, that I shall quote them without farther preface: and leave the Reader to judge, whether he thinks the Assertions of Mr. *Burke's Letter*, to which they will be found either totally incompatible, or not easily reconcileable, without such limitations as seem to render them nearly unimportant in practice, deserve best to be adopted in the reasoning and conduct of a Nation attentive to its happiness.

M A N C H E S T E R C O N S T I T U T I O N A L S O C I E T Y: I N S T I T U T E D, O C T O B E R, 1790.

R E S O L U T I O N,

- I. That in every civil Community, the legitimate Authority of the *Governors* can only be derived from the consent of the *Governed*.

II. That the happiness of the People governed, ought to be the sole end and aim of all civil Government.

III. That public honours and emoluments can only be due for services conferred on the State.

IV. That every person, from the highest to the lowest, appointed to, and accepting of any office or trust for the benefit of the Community, is ultimately responsible to the People for the complete discharge of the duties of it.

V. That *Actions* only, and not *Opinions*, are the proper objects of civil Jurisdiction.

VI. That no law or statute can be fairly made, which is not enacted by and with the consent of a majority of the People, given either expressly by themselves, or by means of a full, fair, and adequate Representation.

VII. That the People of *Great Britain* are not fully, fairly, and adequately represented in Parliament; and that the defective state of the Representation of this Country, and the extended duration of Parliaments, require a speedy and effectual Reform.

A P P E N D I X, No. IV.

IN settling a Constitution, these Points are principally decisive of the Character to be attributed to the Persons charged with that most important Trust: the Truth, Comprehension, and Distinctness of the Principles; the Order, Diligence, Deliberation, and Fidelity in carrying them into effect: Their suitableness to the opinions and habits; their correspondence with the Rights and Interests

of

of the Community ; in the general outline, at least ; and the opportunity and encouragement given to Public Investigation, and correction, with respect to errors, which may have taken place in the particular Provisions.

It is with a view of enabling the Reader to decide, what the general value of the *New Constitution of France* is, and what its comparative Merit, as contrasted with the *Old Government*, that I have thought it expedient to lay before him the *Declaration of Rights*; and some other leading circumstances in the Formation of *that* political SYSTEM, which concerns the welfare of a People, great in every the most distinguishing feature of national greatness, which has already had its influence on the Peace of the neighbouring Nations, and which evidently must be expected to have permanent consequences, relative to the Tranquillity and Liberties of *Europe*, and the progressive Improvement and Felicity of Mankind. Those who write and act, as if they wished to influence whatever can be excited, to the subversion, if possible, of that Form of Government which the *People of France*, by a freer and more full delegation than appears ever to have taken place in a great Community since the origin of political Society, have chosen, may allow themselves, supposing it in any degree probable that their wishes should be accomplished, to reflect what kind of Government, by what means alone to be maintained, and to what ends, not internal merely but foreign, to be directed, they can reasonably presume would be substituted in its place. Not the Monarchy, as

it stood before the Revolution, with its restraints from custom and opinion, though not from positive institution; not a mixed Form, analogous to that of *England*, or of any Country which partakes of Freedom, secured by any tolerable proportion of equal, and generally protective Policy; but some Mode of undisguised and unqualified Tyranny: probably a military Aristocracy, supported by the worst part of the late ecclesiastical establishment, jealous, vindictive, bigotted; and diverting incessantly that Strength and those Resources of the Nation, (if in such a convulsion as must be necessary to subvert the present Government, any should remain,) which they must always contemplate as hostile to themselves, in attempts against the Peace of the surrounding Communities. But if, in such a struggle, the Credit, Manufactures, Commerce, Arts, Population, Strength and Spirit of that Nation, whom it is neither magnanimous nor politic to consider merely as Rivals, should be reduced to a lowness which would prevent it from being of any weight in the System of *Europe*, those who can entertain such a prospect with complacency, must have strange ideas of the wealth and prosperity of the Members of the *political Body* in this part of the Globe, when they would found their hopes of it in the wretched debilitation of one of its chief parts.

My view, in the whole of the preceding Tract, and in those extracts which I have now to offer, has been to prove, that the Fall of the late arbitrary Government of *France*, and the efforts for establishing a free and equal Govern-

ment

ment in its room, far from meriting horror, execration, and contempt, deserved the cordial gratulation, and if requisite, the assistance, of the Friends of Freedom, in this Country, and in every part of the Globe.

DECLARATION of the Rights of Men and of Citizens, contained in the REPORT of the COMMITTEE of CONSTITUTION, read by Mons. MOUNIER, in the NATIONAL ASSEMBLY, July 9, 1789.*

THE Representatives of the People of *France*, formed into a National Assembly, considering that ignorance, neglect, or contempt of human Rights, are the sole Causes of public misfortunes and corruptions of Government, have resolved to set forth, in a solemn Declaration, those natural, unalienable, and sacred Rights of Man †; that this Declaration being constantly present to the Minds of the Members of the Body social, they may be ever kept attentive to their Rights and their Duties: that the Acts

* Address of the National Assembly, with Appendix of Authentic Documents, London, 1790. *L'Assemblée Nationale aux François, 11 Fevr. 1790,* deserves to be read wherever there is a Taste for the Eloquence of the Heart, of Truth, and Freedom.

† Mr BURKE objects, that the more the Description of these Rights is *metaphysically* true, it is *morally* and *politically* false. I have been accustomed to consider Politics as a part of Ethics, and Ethics as a part of Metaphysics. It cannot be the abstract Perfection of these Principles, which renders them false: any more than geometrical Definitions are false, because in Practice we are never sure of more than approximation to them. And Mr. BURKE intimates, if not expresses, his own political Principles as generally as any others can be conceived.

of the legislative and executive powers of Government, being capable of being every moment compared with the End of political institutions, may be more respected : and also, that the future Claims of the Citizens, being directed by simple and incontestible Principles, may always tend to the maintenance of the Constitution, and the general happiness.

For these Reasons, the *National Assembly* doth recognize and declare, in the presence of THE SUPREME BEING *, and with the hope of his Blessing and Favour, the following sacred Rights of Men and of Citizens.

I. Men were born, and always continue free, and equal in respect to their Rights ; civil Distinctions, therefore, can be founded only on public Utility.

II. The end of all political Associations is the preservation of the natural and imprescriptible Rights of Man ; and these Rights are, Liberty, Property, Security, and Resistance of Oppression.

III. The Nation is essentially the source of all Sovereignty : nor can any individual, or any body of men, be

* *In the presence of the Supreme Being.*—If the Majority of the *National Assembly* had consisted of such Men as Mr. Burke in language which*, in respect to him, and much more to that Assembly, I shall not repeat, has suggested, is it credible they should have insulted the NATION, and exposed themselves, without any colour of Necessity, by such a solemn Profession ? But I do not believe, that either Choice or Misfortune could have assembled, from the whole territory of France, a Number equal to the Majority of the National Assembly, composed of such men as Mr. Burke has represented.

* P. 132, 165--8, 207, 208, 243—6.

entitled to any authority which is not expressly derived from it.

IV. Political Liberty consists in the power of doing whatever does not injure another. The exercise of the natural Rights of every Man has no other limits than those which are necessary to secure to every other man the free exercise of the same Rights ; and these limits are determinable only by the Law.

V. The Law ought to prohibit only Actions hurtful to Society. What is not prohibited by the Law, should not be hindered ; nor should any one be compelled to what the Law does not require.

VI. The Law is an expression of the Will of the Community. All Citizens have a Right to concur, either personally, or by their Representatives, in its formation. It should be the same to all, whether it protects or punishes ; and all being equal in its sight, are equally eligible to all honours, places, and employments, according to their different abilities *, without any other distinction than that created by their virtue and talents.

VII.

* Mr. Burke thinks, that the exceptions which can exist to the rule of conferring public employ on men of a certain rank and circumstances, are very rare. They will be rare, (if justice is done to the state and the individual) or frequent, according to the rareness or frequency of the instances to be found of information and public spirit in the body of the Community. That People must be in an unhappy and degraded state, and the vices which have found its way into the Government and Constitution, must be great indeed, if the mass of which it is composed has ignorance, carelessness, and corruption,

VII. No man should be accused, arrested, or held in confinement, except in Cases determined by the Law, and according to the Forms which it has prescribed. All who promote, solicit, execute, or cause to be executed, arbitrary orders, ought to be punished ; and every Citizen called upon or apprehended by the Law, ought immediately to obey, and renders himself culpable by resistance.

VIII. The Law ought to impose no other penalties than such as are absolutely and evidently necessary * ; and no one ought to be punished but in virtue of a Law, promulgated before the offence, and legally applied.

IX.

ruptness, with respect to the political Rights, either of general or of that particular Society, of which they are Members, the prevailing Character of the individuals who compose it. Wherever this is, without exaggeration, the Fact, it will be in vain to enquire for the political abilities, the great, pure, and enlightened principles of the men of rank and opulence in such a Community.

* Upon this rule it may not be difficult to justify what is lamented by Mr. Burke as an inexcusable omission in the *National Assembly*; the not having sent to the Gallies the Author, and to the House of Correction the *Actors*, in a dramatic representation, in which the *Cardinal of Lorraine*, a *Rebel* and a *Murderer*, in Mr. Burke's idea of him †, was represented in his robes of function, ordering general slaughter, and the massacre of St. Bartholomew, was exhibited as an object of abhorrence. He suggests a reason why this ought to have been done, from the multitude of Priests and Prelates who sat in that Assembly. Perhaps it was not thought those Priests and Prelates would have been chosen, or would have accepted a seat there, if they had felt themselves interested in vindicating the Honour of that enormous Act of perfidious, bigotted Cruelty. With similar probability he supposes, that this Representation was designed not to convey to the public feelings an abhorrence of persecution, and of the effusion of blood, but to excite to similar practices.

+ P. 211.

IX. Every man being presumed innocent until he has been convicted, whenever his detention becomes indispensble, all rigour against him more than is necessary to secure his person, ought to be strictly provided against by the Law.

X. No man ought to be molested on account of his Opinions, not even on account of his religious Opinions, provided his avowal of them does not disturb the public order established by the Law *.

XI. The unrestrained communication of thoughts and opinions being one of the most precious Rights of Man, every Citizen may speak, write, and publish freely, provided he is responsible for the abuse of this liberty, in cases determined by the Law.

XII. A public force being necessary to preserve the Rights of Men and Citizens, that force is instituted for the benefit of the Community, and not for the particular benefit of the persons with whom it is entrusted.

XIII. A common Contribution being necessary for the support of the public force, and for defraying the

It may be here observed, that far from terminating in vague and inapplicable theories, this (the 8th) and the following Resolve have a direct reference to practice, in Cases of the most frequent occurrence and most affecting importance to the individual in his relation to civil Society : Cases, however, which have hitherto been almost universally neglected by all Communities, and are greatly so by our own.

* Dr. PRICE, with his usual penetration and impartial attention to the Rights and Interests of Mankind, has intimated the Defects of the 10th and 11th Article *.

* Discourse on the Love of our Country, App. p. 9.

other

ether expences of Government, it ought to be divided equally among the Members of the Community, according to their Abilities.

XIV. Every Citizen has a Right, either by himself or his Representative, to a free Voice in determining the necessity of public Contributions, the appropriation of them, and their amount, mode of assessment, and duration.

XV. Every Community has a Right to demand, of all its agents, an account of their conduct.

XVI. Every Community, in which the separation of Powers is not determined, nor a security of Rights provided, wants a Constitution.

XVII. The Right to property being inviolable and sacred, no one ought to be deprived of it, except in cases of evident public necessity, legally ascertained, and upon condition of a previous just indemnity.

EXTRACT from DECREES, passed 17th of June, 1789.

The Assembly find, upon the result of the verification of their powers, that they are the Representatives of ninety-six parts out of an hundred of the whole Nation. Such a mass of Representation ought not to remain inactive on account of the absence of the Deputies of some Bailiwick, or of some Classes * of Citizens: because the absent, who have been called over, cannot hinder the present from exercising the plenitude of their

* Page 32.

Rights ; especially when the exercise of those Rights is a pressing and imperious Duty.

The Denomination of the NATIONAL ASSEMBLY is the only one which is suitable to the present state of things.... The *National Representation* being one and indivisible, none of its Deputies, in whatever order or class they may be chosen, have a right to exercise their functions separately from the present Assembly *.

*EXTRACT from the REPORT of the COMMITTEE, read
9th of July, 1789.*

A Constitution, to be a good one †, must be founded on the Rights of Men, and must evidently protect them. To frame such a Constitution, we must notice those Rights which natural Justice grants to every individual ; we must lay down those Principles which should form the Basis of every kind of Society ; and each Article of the Constitution must be clearly deduced from some Principle. A great number of modern Civilians call the Statement of these Principles *a Declaration of Rights*.

The Committee think, that it would be proper, in order to point out the Object of our Constitution, to preface it by a Declaration of the Rights of Man ; but to place it in the form of a preamble, at the head of the

* This alludes to the NOBLESSE and CLERGY refusing to ratify their Powers jointly with the Deputies of the TIERS ETAT. Calonne, p. 318—20.

† Page 48.

Articles of the Constitution, and *not* to present it *separately*. The Committee think, that this last mentioned Plan would have little utility ; and might be inconvenient : that abstract and philosophical ideas, *unaccompanied by consequences*, might give room for the substitution of others, different from those which would be admitted by the Assembly : that by *not* decreeing definitively the Declaration of Rights until the moment in which the examination of all the Articles of the Constitution should be finished, they would have the advantage of combining, more exactly, every thing which ought to be admitted into their general exposition of Principles, and received as a legitimate consequence of those Principles.

This Declaration should be short, simple, and precise.

Here the Committee should communicate their views as to the direction of the Assembly's proceedings, with regard to the Constitution. *This is a matter of too great importance not to require the aid of all the light that can be thrown upon it.* It would be highly dangerous to devolve upon a Committee the care of drawing up the Plan of the Constitution, and then to come to a decision upon it in a few Sessions. *The Fate of twenty-four Millions of Men ought not thus to be exposed to the risque of precipitate deliberations.* It would be more agreeable to prudence to establish a Committee of Correspondence, which should meet at certain times, to compare the opinions which might appear to prevail in different Bureaus ; and who should endeavour, by these means, to procure a certain uniformity

uniformity of Principles. As the Articles of the Constitution should be most intimately connected with each other, no single Article of them can be decreed until all of them have undergone the most mature consideration. The *last* Article may occasion some reflections upon the *first*, which may require some change or modification in it. The discussion of the Articles of the Constitution, will, perhaps, consume a considerable portion of time: but no motive ought to induce us to act with precipitation. The greatest of all evils to which we could be exposed, would be a vicious Constitution. But that we may not be supposed to be in a state of inactivity, whilst our most important interests are in agitation, and the more easily to procure to all the Members of this Assembly the means of mutually acquiring and communicating information, three general sessions should be held every week, in which those topics should be publicly debated which have undergone a previous discussion in the Bureaus. By this conduct we shall unite many advantages: we shall act agreeably to our principles: and shall profit by the information of those who wait for new *instructions* to vote in this Assembly. They will, doubtless, be eager to communicate to us their reflections: and, during this examination, they will find *that* time which is necessary to obtain a greater degree of Liberty, without restraining, by this consideration, the activity of this Assembly, which ought never to be suspended.

Extract from another Part of the Report.

Ought we first to be employed in forming a *Constitution* or in making Laws * ? Surely the Choice is not difficult If we were to begin upon those Articles of *Legislation* contained in our respective instructions, we should give rise to a great number of questions In the diversity of objects which would present themselves at once we should be obliged to decide which of them were of the greatest importance. There would be no end to our discussions : and the restoration of Public Credit would be retarded ; since we cannot enter upon the business of the necessary supplies till we have established a Constitution. Those who know the value of time, and wish to guard against all contingencies, always select out of such *Actions* in which they intend to be engaged, such as are *indispensably necessary*, before they pass to others which are merely useful, or will admit of delay.

Certainly, the Evils which our Fellow-Citizens endure call for new Laws : but it is of much less importance to make Laws than to secure the execution of them : and Laws will never be executed till arbitrary Power is destroyed by a well-regulated Form of Government. Besides, there is no important Law which does not require the co-operation of the different powers, and which is not modelled agreeably to their organization. It is

* Page 46.

doubtless, to be lamented, that we cannot, in a single Session, do all the good to which Zeal would animate us : but let us, at least, do what is evidently necessary. There are no Evils for which Liberty does not offer a consolation ; no Advantage which would compensate its Losses When once Liberty shall be fixed, and the legislative Power determined, good Laws will naturally follow. By securing the *periodical return*, or continuance of National Assemblies ; by determining their form and composition ; by regulating the bounds of every kind of power ;—these are the Methods by which Liberty is to be established.”

*Great Branches of Reform already effected ; and concerning
which it is presumed few will disagree.*

The Abolition of arbitrary and partial Imposts.

The Abolition of Lettres de Cachet, and all other means by which Persons were liable to severe and indefinite Punishments without Trial or Enquiry.

The Destruction of the *Bastille*, and of all other Places of cruel and inextricable Confinement, in which Persons innocent or meritorious, might languish out their Lives in extreme Suffering and Despair, without their imputed Crimes, their Accusers, their Situation, their Life or Death being known to the Public, or to any interested in their Relief.

The Abolition of unknown and unlimited Pensions for no Service, or the worst Injuries to Individuals, and Crimes the most dangerous against the Community.

The Extinction of venal hereditary Offices of Justice.

The Surrender of local provincial Privileges, incompatible with a general System of national Constitution.

The Establishment of Trial by Jury in criminal Cases.

The Establishment of a Representation of the People, full, free, and equalized in a very high Degree.

Other Branches of Reform,

already executed, concerning which it is presumed a great part of the consistent Friends of Freedom and human Happiness will agree.

The Encouragement to Freedom of Enquiry.

The Suppression of the summary, arbitrary, and local Power of administering Justice in confined limits, and not subject to the public eye, exercised by Lords of Manors.

The Suppression of the Game Laws.

The Suppression of other partial, arbitrary, and oppressive Privileges over the Persons and Property of the

People.

The Abolition of first fruits and dues to the Pope: and the dependence on a foreign Jurisdiction.

The Suppression of Plurality of Benefices.

The Abolition of Tythes: and the Substitution of a Provision for the Clergy, less discouraging to agricultural Improvement, less injurious to the effect of their instructions, and more compatible with Peace and good Intelligence between them and their Parishioners.

The Removal of private Patronage in the public office of religious Instruction.

Let the whole be considered, and with all deductions of Defects or positive Errors, (such as have principally appeared in that light have been already intimated) if any Framers of a new Constitution have acted for a great People under a more full, free, and equal Delegation, with more Energy, more liberal Views, more Fortitude, more Fidelity * and Desire of public Information, let those who point to such not fail to announce them: those who cannot may be rationally expected to be candid in their Interpretation and temperate in their Censure, if they would entitle themselves to the Confidence and Esteem of the Public, or would render service to FRANCE, or to any other Country, by their Reflections. For many of those of MR. BURKE I have testified a sincere Respect: and should be concern-

* Their Disinterestedness has been applauded in the highest Terms in a *Letter to Earl Stanhope*: which, from the Style and Sentiments, the Public Judgment has, with reason, referred to one of the first Writers of our Age. *Lake* p. 92--1.

ed, perhaps more than many of his Friends, if their Utility should be impaired, to the degree which may be feared, by any immoderate and repulsive vehemence in the Mode of conveying them. I am more concerned than surprised if, amidst the storms of State and the irritation of Parties, the Equanimity of the philosophic Politician has been, for the time at least, overcome; though much of the Sagacity and Philanthropy of that Character is still retained.

Saturday, 4th December, 1790.

T H E E N D.











